

AMENDED IN SENATE JUNE 24, 2004

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 2277**

**Introduced by Assembly Member Dymally**

February 19, 2004

---

---

An act to amend ~~Section 25211~~ *Sections 25211 and 25404* of, and to add Sections 25211.1, 25211.2, 25211.3, and 25211.4 to, the Health and Safety Code, and to amend Sections 42167 and 42175 of the Public Resources Code, relating to hazardous waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2277, as amended, Dymally. Hazardous waste.

~~Under~~

(1) *Under* existing law, the California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, materials that require special handling, as defined, are required to be removed from major appliances and vehicles in which they are contained prior to crushing for transport or transferring to a baler or shredder for recycling. Existing law requires any hazardous material that becomes a hazardous waste when released or removed from a major appliance and any mercury-containing motor vehicle light switch that becomes a hazardous waste when removed from any vehicle to be managed pursuant to specified hazardous waste control requirements.

Under existing law, a violation of hazardous waste management requirements is a crime.

This bill would change the definition of “materials that require special handling” and would require those materials to be removed from major appliances and vehicles in which they are contained before the appliance or vehicle is crushed, baled, shredded, or sawed or sheared apart, or otherwise processed in a manner that could result in the release or prevent the removal of materials that require special handling.

The bill would require the Department of Toxic Substances Control, by July 1, 2005, to adopt emergency regulations for the requirements and procedures for obtaining, suspending, and revoking an appliance recycler certificate and imposing penalties related to the removal of hazardous wastes from appliances. The bill would require the department, by October 1, 2005, to establish a process for certifying appliance recyclers, and would require an appliance recycler to apply for certification, as specified. The bill would require, before a certificate may be granted, the certified uniform program agency in whose jurisdiction the applicant is located inspect the appliance recycling facility, as specified. By imposing new duties on a certified uniform program agency, the bill would impose a state-mandated local program.

The bill would prohibit, on and after January 1, 2006, a person, other than a certified appliance recycler, as defined, from taking specified actions, with respect to materials that require special handling and major appliances.

The bill would require a certified appliance recycler to submit a specified report to the department quarterly.

The bill would define terms for these purposes.

By imposing new hazardous waste management requirements, the violation of which would be a crime, the bill would impose a state-mandated local program.

*(2) Existing law requires the Secretary for Environmental Protection to adopt regulations and implement a unified hazardous waste and hazardous materials management regulatory program. Existing law authorizes a city or local agency that meets specified requirements to apply to the secretary to implement the unified program, and requires every county to apply to the secretary to be certified to implement the unified program.*

*This bill would additionally include, in the unified program, a person who is subject to specified requirements regarding the removal of*

*materials that require special handling from a major appliance, thereby creating a state-mandated local program by imposing new duties upon local agencies.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for specified reasons.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Chapter 3.5 (commencing with Section 42160) of Part 3 of  
4 Division 30 of the Public Resources Code was enacted in 1991 to  
5 divert large metallic discards, including major appliances and  
6 vehicles, from landfills and to ensure that hazardous materials,  
7 defined as “materials that require special handling,” are removed  
8 from metallic discards before they are crushed or shredded for  
9 metals recycling.

10 (b) A May 2004 report by the California Research Bureau,  
11 “Appliance Recycling and Materials Requiring Special Handling:  
12 Improving the Effectiveness of the Metallic Discards Act,” finds  
13 that “there are likely widespread violations” of the requirement

1 to remove materials that require special handling from appliances,  
2 and that compliance is probably weakest for removal of mercury  
3 switches and thermostats and PCB capacitors.

4 (c) The report finds that there is strong circumstantial evidence  
5 that violations of Chapter 3.5 (commencing with Section 42160)  
6 of Part 3 of Division 30 of the Public Resources Code lead to the  
7 release of harmful substances into the environment. The failure to  
8 remove hazardous materials from appliances before they are  
9 crushed or shredded for metals recycling results in the combustion  
10 of mercury, PCBs, and other hazardous materials in thermal  
11 combustion units and the release of these contaminants to land,  
12 water, and air.

13 (d) The report also finds that there are strong incentives for  
14 appliance recyclers not to comply with the law, including a lack of  
15 inspection and enforcement at appliance recycling facilities and an  
16 inability of enforcement agencies to know which facilities are  
17 processing appliances for metals recycling. The report  
18 recommends that accountability under the act be improved by  
19 requiring appliance processors to be licensed and requiring  
20 shredders only to accept appliances from licensed parties that  
21 certify that materials that require special handling have been  
22 removed.

23 SEC. 2. Section 25211 of the Health and Safety Code is  
24 amended to read:

25 25211. For purposes of this article, the following terms have  
26 the following meaning:

27 (a) “Certified appliance recycler” means a person or entity  
28 engaged in the business of removing and properly managing  
29 materials that require special handling from discarded major  
30 appliances, and who is certified pursuant to Section 25211.4.

31 (b) “Local agency” means a local health officer or other public  
32 officer authorized pursuant to Article 8 (commencing with Section  
33 25180), including, when applicable, a certified unified program  
34 agency (CUPA) or a unified program agency within the  
35 jurisdiction of a CUPA.

36 (c) “Major appliance” has the same meaning as defined in  
37 Section 42166 of the Public Resources Code.

38 (d) “Materials that require special handling” has the same  
39 meaning as defined in Section 42167 of the Public Resources  
40 Code.

(e) “Scrap recycling facility” means a facility where machinery and equipment are used for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron or nonferrous metallic scrap for sale for remelting purposes. A scrap recycling facility includes, but is not limited to, a feeder yard, a metal shredding facility, a metal crusher, and a metal baler.

SEC. 3. Section 25211.1 is added to the Health and Safety Code, to read:

25211.1. On and after January 1, 2006, no person other than a certified appliance recycler shall do either of the following:

(a) Remove materials that require special handling from major appliances pursuant to Section 42175 of the Public Resources Code.

(b) Transport, deliver, or sell discarded major appliances to a scrap recycling facility, except as provided in ~~subdivisions (b) and (c)~~ *subdivision (b)* of Section 25211.2.

SEC. 4. Section 25211.2 is added to the Health and Safety Code, to read:

25211.2. (a) On and after January 1, 2006, except as provided in ~~subdivisions (b) and (c)~~ *subdivision (b)*, a person who transports, delivers, or sells discarded major appliances to a scrap recycling facility shall provide evidence that he or she is a certified appliance recycler and shall certify, on a form prepared by the department and provided to the facility at the time of the transaction, that all materials that require special handling have been removed from the appliances pursuant to Section 42175 of the Public Resources Code. Information on the form shall include, but not be limited to, the appliance recycler certificate number, the appliance recycler’s hazardous waste generator identification number, the number and types of appliances included in the shipment, and the facilities to which the materials that require special handling that were removed from the appliances were sent or are to be sent.

(b) A person who is not a certified appliance recycler may transport, deliver, or sell discarded major appliances to a scrap recycling facility only if either of the following conditions are met:

(1) (A) The appliances have not been crushed, baled, shredded, sawed or sheared apart, or otherwise processed in such

1 a manner that could result in the release, or prevent the removal,  
2 of materials that require special handling.

3 (B) The scrap recycling facility provides the person with  
4 written documentation that the facility is a certified appliance  
5 recycler. The document shall include the facility's appliance  
6 recycler certificate number and hazardous waste generator  
7 identification number.

8 (2)(A) The appliances have been crushed, baled, shredded, or  
9 sawed or sheared apart.

10 (B) The person provides the scrap recycling facility written  
11 evidence from a certified appliance recycler, as required in  
12 subdivision (a), that all materials that require special handling  
13 were removed from the appliances pursuant to Section 42175 of  
14 the Public Resources Code before the person crushed, baled,  
15 shredded, or sawed or sheared apart the appliances.

16 SEC. 5. Section 25211.3 is added to the Health and Safety  
17 Code, to read:

18 25211.3. A certified appliance recycler shall submit to the  
19 department, on a quarterly basis as determined by the department,  
20 a record of all materials that ~~required~~ *require* special handling that  
21 it removed from major appliances during the previous quarter. The  
22 record *shall be retained by the certified appliance recycler for three*  
23 *years and be made available for inspection, upon the request of a*  
24 *representative of the department or a local agency. The record*  
25 *shall* include, but not be limited to, all of the following  
26 information:

27 (a) The amount, by volume or weight or both, as determined by  
28 the department, of each material that required special handling.

29 (b) The method used by the appliance recycler to recycle,  
30 dispose of, or otherwise manage each material that required  
31 special handling, including the name and address of the facility to  
32 which each material was sent.

33 SEC. 6. Section 25211.4 is added to the Health and Safety  
34 Code to read:

35 25211.4. (a) On or before July 1, 2005, the department shall  
36 adopt emergency regulations setting forth the requirements and  
37 the procedures for obtaining, suspending, and revoking an  
38 appliance recycler certificate, denying an application for an  
39 appliance recycler certificate, and imposing civil or criminal  
40 penalties for violations of any provision of this article. The

1 regulations may authorize the collection of a fee to cover the cost  
2 of administering appliance recycler certificates, consistent with  
3 the cost reimbursement provisions of Article 9.2 (commencing  
4 with Section 25206.1).

5 (b) The department, on or before October 1, 2005, shall  
6 establish a process whereby an appliance recycler may be certified  
7 by the department, or by a local agency if authorized by  
8 regulations adopted pursuant to subdivision (a). The purpose of the  
9 certification shall be to allow an appliance recycler to demonstrate  
10 that its personnel, training, equipment, and capacity are adequate  
11 to remove and properly manage materials that require special  
12 handling in compliance with this article and Section 42175 of the  
13 Public Resources Code.

14 (c) An appliance recycler shall apply for an appliance recycler  
15 certificate on a form approved by the department. The department  
16 shall prescribe the information required of the applicant, and the  
17 applicant shall provide that information under penalty of perjury.  
18 In addition to any other information required to be submitted, the  
19 applicant shall furnish all of the following information on any  
20 application for a new or renewed certificate:

21 (1) The business name under which the appliance recycler  
22 operates, and the business owner's name, address, and telephone  
23 number.

24 (2) A hazardous waste generator identification number issued  
25 by the department pursuant to this chapter.

26 (3) A statement indicating that the applicant has either filed an  
27 application for a storm water permit or is not required to obtain a  
28 storm water permit.

29 (4) A statement indicating that the applicant has either filed a  
30 hazardous materials business plan or is not required to file the plan.

31 (5) The tax identification number assigned by the Franchise  
32 Tax Board.

33 (6) A copy of a business license and any conditional use permits  
34 issues by the appropriate city or county.

35 (7) A description of the ability of the applicant to properly  
36 remove and manage all materials that require special handling,  
37 including but not limited to, a technical description of all  
38 equipment used in removing and managing the materials and the  
39 training provided to personnel engaged in the removal and  
40 managing of the materials.



1 (8) *Any other information that the department may specify in*  
2 *a regulation.*

3 (d) Before an appliance recycling certificate may be granted,  
4 the certified uniform program agency in whose jurisdiction the  
5 applicant is located shall inspect the appliance recycling facility to  
6 determine whether the recycler is capable of properly removing  
7 and managing materials that require special handling from major  
8 appliances. In making the determination, the department or local  
9 agency shall consider various factors, including, but not limited to,  
10 the working condition of equipment used to remove the materials,  
11 the technical ability of employees of the business to operate the  
12 equipment proficiently, and in the case of an existing appliance  
13 recycler, the applicant's compliance with existing applicable laws.  
14 An appliance recycling certificate shall not be granted unless the  
15 inspecting agency determines the applicant is capable of properly  
16 removing and managing materials that require special handling in  
17 compliance with the requirements of the chapter.

18 SEC. 7. *Section 25404 of the Health and Safety Code, as*  
19 *amended by Section 1.5 of Chapter 696 of the Statutes of 2003, is*  
20 *amended to read:*

21 25404. (a) For purposes of this chapter, the following terms  
22 shall have the following meanings:

23 (1) (A) "Certified Unified Program Agency" or "CUPA"  
24 means the agency certified by the secretary to implement the  
25 unified program specified in this chapter within a jurisdiction.

26 (B) "Participating Agency" or "PA" means a state or local  
27 agency that has a written agreement with the CUPA pursuant to  
28 subdivision (d) of Section 25404.3, and is approved by the  
29 secretary, to implement or enforce one or more of the unified  
30 program elements specified in subdivision (c), in accordance with  
31 Sections 25404.1 and 25404.2.

32 (C) "Unified Program Agency" or "UPA" means the CUPA,  
33 or its participating agencies to the extent each PA has been  
34 designated by the CUPA, pursuant to a written agreement, to  
35 implement or enforce a particular unified program element  
36 specified in subdivision (c). The UPAs have the responsibility and  
37 authority to implement and enforce the requirements listed in  
38 subdivision (c), and the regulations adopted to implement the  
39 requirements listed in subdivision (c), to the extent provided by  
40 Chapter 6.5 (commencing with Section 25100), Chapter 6.67



(commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) “Department” means the Department of Toxic Substances Control.

(3) “Minor violation” means the failure of a person to comply with any requirement or condition of any applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.

(B) A knowing willful or intentional violation.

(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(D) A violation that results in an emergency response from a public safety agency.

(E) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

(F) A class I violation as provided in Section 25117.6.

(G) A class II violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6.

(H) A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

(4) “Secretary” means the Secretary for Environmental Protection.

1 (5) “Unified program facility” means all contiguous land and  
2 structures, other appurtenances, and improvements on the land  
3 that are subject to the requirements listed in subdivision (c).

4 (6) “Unified program facility permit” means a permit issued  
5 pursuant to this chapter. For the purposes of this chapter, a unified  
6 program facility permit encompasses the permitting requirements  
7 of Section 25284, and any permit or authorization requirements  
8 under any local ordinance or regulation relating to the generation  
9 or handling of hazardous waste or hazardous materials, but does  
10 not encompass the permitting requirements of a local ordinance  
11 that incorporates provisions of the Uniform Fire Code or the  
12 Uniform Building Code.

13 (b) The secretary shall adopt implementing regulations and  
14 implement a unified hazardous waste and hazardous materials  
15 management regulatory program, which shall be known as the  
16 unified program, after holding an appropriate number of public  
17 hearings throughout the state. The unified program shall be  
18 developed in close consultation with the director, the Director of  
19 the Office of Emergency Services, the State Fire Marshal, the  
20 executive officers and chairpersons of the State Water Resources  
21 Control Board and the California regional water quality control  
22 boards, the local health officers, local fire services, and other  
23 appropriate officers of interested local agencies, and affected  
24 businesses and interested members of the public, including  
25 environmental organizations.

26 (c) The unified program shall consolidate the administration of  
27 the following requirements, and shall, to the maximum extent  
28 feasible within statutory constraints, ensure the coordination and  
29 consistency of any regulations adopted pursuant to those  
30 requirements:

31 (1) (A) Except as provided in subparagraphs (B) and (C), the  
32 requirements of Chapter 6.5 (commencing with Section 25100),  
33 and the regulations adopted by the department pursuant thereto,  
34 applicable to ~~hazardous~~ all of the following:

35 (i) *Hazardous* waste generators, persons operating pursuant to  
36 a permit-by-rule, conditional authorization, or conditional  
37 exemption, pursuant to Chapter 6.5 (commencing with Section  
38 25100) or the regulations adopted by the department, ~~and persons~~.

39 (ii) *Persons* managing perchlorate materials.

1 (iii) *Person subject to Article 10.1 (commencing with Section*  
2 *25211) of Chapter 6.5.*

3 (B) The unified program shall not include the requirements of  
4 paragraph (3) of subdivision (c) of Section 25200.3, the  
5 requirements of Sections 25200.10 and 25200.14, and the  
6 authority to issue an order under Sections 25187 and 25187.1, with  
7 regard to those portions of a unified program facility that are  
8 subject to one of the following:

9 (i) A corrective action order issued by the department pursuant  
10 to Section 25187.

11 (ii) An order issued by the department pursuant to Chapter 6.8  
12 (commencing with Section 25300) or Chapter 6.85 (commencing  
13 with Section 25396).

14 (iii) A remedial action plan approved pursuant to Chapter 6.8  
15 (commencing with Section 25300) or Chapter 6.85 (commencing  
16 with Section 25396).

17 (iv) A cleanup and abatement order issued by a California  
18 regional water quality control board pursuant to Section 13304 of  
19 the Water Code, to the extent that the cleanup and abatement order  
20 addresses the requirements of the applicable section or sections  
21 listed in this subparagraph.

22 (v) Corrective action required under subsection (u) of Section  
23 6924 of Title 42 of the United States Code or subsection (h) of  
24 Section 6928 of Title 42 of the United States Code.

25 (vi) An environmental assessment pursuant to Section  
26 25200.14 or a corrective action pursuant to Section 25200.10 or  
27 paragraph (3) of subdivision (c) of Section 25200.3, that is being  
28 overseen by the department.

29 (C) The unified program shall not include the requirements of  
30 Chapter 6.5 (commencing with Section 25100), and the  
31 regulations adopted by the department pursuant thereto,  
32 applicable to persons operating transportable treatment units,  
33 except that any required notice regarding transportable treatment  
34 units shall also be provided to the CUPAs.

35 (2) The requirement of subdivision (c) of Section 25270.5 for  
36 owners and operators of aboveground storage tanks to prepare a  
37 spill prevention control and countermeasure plan.

38 (3) (A) Except as provided in subparagraphs (B) and (C), the  
39 requirements of Chapter 6.7 (commencing with Section 25280)

1 concerning underground storage tanks and the requirements of any  
2 underground storage tank ordinance adopted by a city or county.

3 (B) The unified program may not include the responsibilities  
4 assigned to the State Water Resources Control Board pursuant to  
5 Section 25297.1.

6 (C) The unified program may not include the corrective action  
7 requirements of Sections 25296.10 to 25296.40, inclusive.

8 (4) The requirements of Article 1 (commencing with Section  
9 25500) of Chapter 6.95 concerning hazardous material release  
10 response plans and inventories.

11 (5) The requirements of Article 2 (commencing with Section  
12 25531) of Chapter 6.95, concerning the accidental release  
13 prevention program.

14 (6) The requirements of subdivisions (b) and (c) of Section  
15 80.103 of the Uniform Fire Code, as adopted by the State Fire  
16 Marshal pursuant to Section 13143.9 ~~of the Health and Safety~~  
17 ~~Code~~, concerning hazardous material management plans and  
18 inventories.

19 (d) To the maximum extent feasible within statutory  
20 constraints, the secretary shall consolidate, coordinate, and make  
21 consistent these requirements of the unified program with other  
22 requirements imposed by other federal, state, regional, or local  
23 agencies upon facilities regulated by the unified program.

24 (e) (1) The secretary shall establish standards applicable to  
25 CUPAs, participating agencies, state agencies, and businesses  
26 specifying the data to be collected and submitted by unified  
27 program agencies in administering the programs listed in  
28 subdivision (c). Those standards shall incorporate any standard  
29 developed under Section 25503.3.

30 (2) The secretary shall establish an electronic geographic  
31 information management system capable of receiving all data  
32 collected by the unified program agencies pursuant to this  
33 subdivision and Section 25504.1. The secretary shall make all  
34 nonconfidential data available on the Internet.

35 (3) (A) As funding becomes available, the secretary shall  
36 establish, consistent with paragraph (2), and thereafter maintain,  
37 a statewide database.

38 (B) The secretary, or one or more of the boards, departments,  
39 or offices within the California Environmental Protection Agency,

1 shall seek available federal funding for purposes of implementing  
2 this subdivision.

3 (4) Once the statewide database is established, the secretary  
4 shall work with the CUPAs to develop a phased-in schedule for the  
5 electronic collection and submittal of information to be included  
6 in the statewide database, giving first priority to information  
7 relating to those chemicals determined by the secretary to be of  
8 greatest concern. The secretary, in making this determination shall  
9 consult with the CUPAs, the Office of Emergency Services, the  
10 State Fire Marshal, and the boards, departments, and offices within  
11 the California Environmental Protection Agency. The information  
12 initially included in the statewide database shall include, but is not  
13 limited to, the hazardous materials inventory information required  
14 to be submitted pursuant to Section 25504.1 for perchlorate  
15 materials.

16 (f) This section shall remain in effect only until January 1,  
17 2006, and as of that date is repealed, unless a later enacted statute,  
18 that is enacted before January 1, 2006, deletes or extends that date.

19 *SEC. 9. Section 25404 of the Health and Safety Code, as*  
20 *amended by Section 2.5 of Chapter 696 of the Statutes of 2003, is*  
21 *amended to read:*

22 25404. (a) For purposes of this chapter, the following terms  
23 shall have the following meanings:

24 (1) (A) “Certified Unified Program Agency” or “CUPA”  
25 means the agency certified by the secretary to implement the  
26 unified program specified in this chapter within a jurisdiction.

27 (B) “Participating Agency” or “PA” means a state or local  
28 agency that has a written agreement with the CUPA pursuant to  
29 subdivision (d) of Section 25404.3, and is approved by the  
30 secretary, to implement or enforce one or more of the unified  
31 program elements specified in subdivision (c), in accordance with  
32 Sections 25404.1 and 25404.2.

33 (C) “Unified Program Agency” or “UPA” means the CUPA,  
34 or its participating agencies to the extent each PA has been  
35 designated by the CUPA, pursuant to a written agreement, to  
36 implement or enforce a particular unified program element  
37 specified in subdivision (c). The UPAs have the responsibility and  
38 authority to implement and enforce the requirements listed in  
39 subdivision (c), and the regulations adopted to implement the  
40 requirements listed in subdivision (c), to the extent provided by

Chapter 6.5 (commencing with Section 25100), Chapter 6.6 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) “Department” means the Department of Toxic Substances Control.

(3) “Secretary” means the Secretary for Environmental Protection.

(4) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(5) “Unified program facility permit” means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and any permit or authorization requirements under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the Uniform Fire Code or the Uniform Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Director of the Office of Emergency Services, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements, and shall, to the maximum extent feasible within statutory constraints, ensure the coordination and

consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to ~~hazardous~~ *all of the following*:

(i) *Hazardous* waste generators, persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, ~~and persons~~.

(ii) *Persons* managing perchlorate materials.

(iii) *Persons subject to Article 10.1 (commencing with Section 25211) of Chapter 6.5.*

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

(i) A corrective action order issued by the department pursuant to Section 25187.

(ii) An order issued by the department pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iii) A remedial action plan approved pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.



(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirement of subdivision (c) of Section 25270.5 for owners and operators of aboveground storage tanks to prepare a spill prevention control and countermeasure plan.

(3) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks and the requirements of any underground storage tank ordinance adopted by a city or county.

(B) The unified program may not include the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1.

(C) The unified program may not include the corrective action requirements of Sections 25296.10 to 25296.40, inclusive.

(4) The requirements of Article 1 (commencing with Section 25501) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of subdivisions (b) and (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 of the ~~Health and Safety Code~~, concerning hazardous material management plans and inventories.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c). Those standards shall incorporate any standard developed under Section 25503.3.

(2) The secretary shall establish an electronic geographic information management system capable of receiving all data collected by the unified program agencies pursuant to this subdivision and Section 25504.1. The secretary shall make all nonconfidential data available on the Internet.

(3) (A) As funding becomes available, the secretary shall establish, consistent with paragraph (2), and thereafter maintain, a statewide database.

(B) The secretary, or one or more of the boards, departments, or offices within the California Environmental Protection Agency, shall seek available federal funding for purposes of implementing this subdivision.

(4) Once the statewide database is established, the secretary shall work with the CUPAs to develop a phased-in schedule for the electronic collection and submittal of information to be included in the statewide database, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary in making this determination shall consult with the CUPAs, the Office of Emergency Services, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency. The information initially included in the statewide database shall include, but is not limited to, the hazardous materials inventory information required to be submitted pursuant to Section 25504.1 for perchlorate materials.

(f) This section shall become operative January 1, 2006.

*SEC. 10.* Section 42167 of the Public Resources Code is amended to read:

42167. “Materials that require special handling” means all of the following:

(a) Sodium azide canisters in unspent airbags that are determined to be hazardous by federal and state law or regulation.

(b) Encapsulated polychlorinated biphenyls (PCBs), Di(2-Ethylhexylphthalate) (DEHP), and metal encased capacitors, in major appliances.

(c) Chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and other non-CFC replacement refrigerants, injected in air-conditioning/refrigeration units.

(d) Used oil, as defined in subparagraph (A) of paragraph (1) of subdivision (a) of Section 25250.1 of the Health and Safety

Code, in major appliances. Materials described in subparagraph (B) of paragraph (1) of subdivision (a) of Section 25250.1 of the Health and Safety Code are not excluded from the definition of used oil for the purposes of this section.

(e) Mercury found in switches and temperature control devices in major appliances.

(f) Any other material that, when removed from a major appliance, is a hazardous waste regulated pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

~~SEC. 8.—~~

*SEC. 11.* Section 42175 of the Public Resources Code is amended to read:

~~42175.—In order to prevent an illegal release of a hazardous waste, materials that require special handling shall be~~

*42175. Materials that require special handling shall be* removed from major appliances and vehicles in which they are contained prior to the appliance or vehicle being crushed, baled, shredded, or sawed or sheared apart, or otherwise processed in a manner that could result in the release or prevent the removal of materials that require special handling.

~~SEC. 9.—No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

~~However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

1     *SEC. 12. No reimbursement is required by this act pursuant*  
2     *to Section 6 of Article XIII B of the California Constitution for*  
3     *certain costs that may be incurred by a local agency or school*  
4     *district because in that regard this act creates a new crime or*  
5     *infraction, eliminates a crime or infraction, or changes the penalty*  
6     *for a crime or infraction, within the meaning of Section 17556 of*  
7     *the Government Code, or changes the definition of a crime within*  
8     *the meaning of Section 6 of Article XIII B of the California*  
9     *Constitution or because a local agency or school district has the*  
10    *authority to levy service charges, fees, or assessments sufficient to*  
11    *pay for the program or level of service mandated by this act, within*  
12    *the meaning of Section 17556 of the Government Code.*

